

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

KEYBANC CAPITAL MARKETS,)	Case No.: 1:07 CV 1227
)	
Plaintiff)	
)	
v.)	JUDGE SOLOMON OLIVER, JR.
)	
ALPINE BIOMED CORP.,)	
)	
Defendant)	<u>ORDER</u>

Pending before the court are Defendant Alpine Biomed Corp.'s ("Defendant"): (1) Motion to Dismiss for Lack of Personal Jurisdiction (ECF No. 6); and (2) Motion to Change/Transfer Venue. (ECF No. 23.) The court referred the case to Magistrate Judge Nancy A. Vecchiarelli (the "Magistrate Judge") on February 1, 2008, to prepare a Report and Recommendation ("R&R") on all pending motions. (Order, ECF No. 38.)

On March 7, 2008, the Magistrate Judge issued her R&R. (ECF No. 39.) The Magistrate Judge recommended that the court deny as moot Defendant's Motion to Dismiss for Lack of Personal Jurisdiction and grant Defendant's Motion to Change/Transfer Venue. (*See generally* R&R.) Specifically, the Magistrate Judge stated that the court need not determine whether personal jurisdiction exists in this case because, even if it did exist, venue should still be transferred to the Central District of California. (*Id.* at 9.) The Magistrate Judge concluded that the transfer of venue is appropriate, pursuant to 28 U.S.C. § 1404(a), because: (1) the action originally filed could have

been filed in the proposed transferee court, the Central District of California; and (2) the private and public interest factors favor transfer. (*Id.* at 10-12.)

As of the date of this Order, Plaintiff has not filed objections to the R&R. By failing to do so, Plaintiff has waived its right to appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The court finds, after careful review of the Magistrate Judge's R&R and all other relevant documents, that the Magistrate Judge's conclusions are fully supported by the record and controlling case law. Accordingly, the court adopts as its own the Magistrate Judge's R&R (ECF No. 39) and hereby transfer the within case to the United States District Court for the Central District of California.

IT IS SO ORDERED.

/s/ SOLOMON OLIVER, JR.
UNITED STATES DISTRICT JUDGE

March 26, 2008